

**IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN RE: PATRICK COREY PATTERSON)	CHAPTER 13
Debtor,)	
)	CASE NO. 17-69753-lrc
<hr style="border-top: 1px dashed black;"/>		
N/A GLEN PARKK-77, LP, D/B/A, GLEN PARK APARTMENTS)	
)	
Movant,)	
vs.)	<u>CONTESTED MATTER</u>
)	
PATRICK COREY PATTERSON AND MELISSA J. DAVEY, CHAPTER 13 TRUSTEE,)	
Respondents,)	

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that on December 19, 2017, N/A Glen Park-77, LP, d/b/a Glen Park Apartments has filed a Motion for Relief from Automatic Stay with the court seeking an order granting relief from the automatic stay in the above-styled case. **A hearing on the Motion will be held on the 11th day of January 2018, at 1:15 p.m., in Courtroom 1204, United States Courthouse, 75 Spring Street, S. W., Atlanta, Georgia.**

Your rights may be affected by the court's ruling on these pleadings. You should read these pleadings carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.) If you do not want the court to grant the relief sought in these pleadings or if you want the court to consider your views, then you and/or your attorney must attend the hearing. You may also file a written response to the pleading with the Clerk at the address stated below, but you are not required to do so. If you file a written response, you must attach a certificate stating when, how and on whom (including addresses) you served the response. Mail or deliver your response so that it is received by the

Clerk at least two business days before the hearing. The address of the Clerk's Office is Clerk, U.S. Bankruptcy Court, Suite 1340, 75 Ted Turner Drive, SW, Atlanta, Georgia 30303. You must also mail a copy of your response to the undersigned at the address stated below.

In the event a hearing cannot be held within thirty (30) days from the date of filing of the Motion for Relief from the Automatic Stay as required by 11 USC Section 362, Movant by and through counsel waives the requirement for holding a preliminary hearing within thirty (30) days of filing the motion and agrees to a hearing on the earliest possible date. Movant consents to the automatic stay remaining in effect until the Court orders otherwise..

At Atlanta, Georgia, this 19th day of December 2017.

ORDER PRESENTED BY:

/s/ David R. Passino

David R. Passino

State Bar No. 565848

11180 State Bridge Road, Suite 301

Alpharetta, GA 30022

770-783-2219

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MOTION FOR RELIEF FROM AUTOMATIC STAY

COMES NOW N/A Glen Park-77, LP, d/b/a Glen Park Apartments by and through counsel, and hereby moves the Court as follows:

1.

This Court has jurisdiction over this contested matter pursuant to 28 USC §1471 and 11 USC §362 and 363.

2.

The Debtor filed a petition under Chapter 13 of the Bankruptcy Code on November 9, 2017.

3.

Movant is the lessor of the premises where the Debtor resides located at 502 Walton Way, SE Smyrna, GA 30082.

4.

Debtor leased the premises at 502 Walton Way, SE Smyrna, GA 30082 from Movant on July 23, 2016 under a written lease agreement for a term commencing August 3, 2016 and ending

August 8, 2017. Debtor's monthly rent is \$1320.00 which is due on the 1st day of each month and late after the 5th day of the month at which time a \$100.00 late fee is due as additional rent. Debtor also pays \$65.00 per month for utilities.

5.

The Debtor owes pre-petition rent and utilities for the months of October and November and post-petition rent and utilities for the month of December.

6.

Movant filed a dispossessory action against Debtor on October 10, 2017 and the Debtor filed an Answer and the matter was scheduled for trial on November 10, 2017 but the case was stayed due to the filing of this bankruptcy petition.

7.

Debtor has a mere possessory interest in the property as the lease has expired and is on a month to month basis. Further, Debtor has failed to cure pre-petition or post-petition rent arrearages. Additionally, Debtor will have to cure the rent arrearage in order to assume the lease and this default gives Movant cause to assert that Debtor has failed to provide adequate assurance of future performance as required.

8.

By reason of the foregoing, continuation of the automatic stay of 11 USC 362(a) will work real and irreparable harm to Movant.

9.

Debtor is still in possession of the premises, and Movant is not adequately protected as required under 11 USC 1322(b)(7). Therefore Debtor is required pursuant to 11 USC Section 365(b)(4) to return possession to the lessor.

WHEREFORE, Petitioner prays for:

1. An Order terminating the automatic stay and authorize Movant to proceed with eviction proceedings in State Court;
2. Possession of the premises;
3. A waiver of Bankruptcy Rule 4001(a)(3);
4. Reasonable attorney's fees; and/or
5. Such other and further relief as is just and proper.

This 19th day of December 2017.

/s/ David R. Passino

David R. Passino

Attorney for Movant

State Bar No. 565848

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Alpharetta, GA 30022
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CERTIFICATE OF SERVICE

I, DAVID R. PASSINO, of 11180 State Bridge Road, Suite 301, Alpharetta, GA 30022 certify:

That I am at all times hereinafter mentioned was, more than 18 years of age:

That on December 19, 2017 I served a copy of the within NOTICE OF HEARING
together with the MOTION FOR RELIEF FROM STAY filed in this bankruptcy matter on:

Melissa J. Davey
Chapter 13 Trustee
Suite 200
260 Peachtree Street, NW
Atlanta, GA 30303

Patrick Corey Patterson
502 Walton Way, SE
Smyrna, GA 30082

Howard Slomka
Slipakoff & Slomka, PC
Overlook III – Suite 1700
2859 Paces Ferry Road, SE
Atlanta, GA 30339

the respondents in this bankruptcy matter by U.S. First Class Mail to said respondents at

the above addresses.

I CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE
AND CORRECT.

Executed on: December 19, 2017

/s/ David R. Passino
David R. Passino
State Bar No. 565848

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Alpharetta, GA 30022
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